

**REPORT - PLANNING COMMISSION MEETING**  
**June 23, 2005**

**Project Name and Number:** Multi-Family R-G and R-3 Zoning Text Amendments (PLN2005-00221, part two)

**Applicant:** City of Fremont

**Proposal:** Zoning text amendments to the Multi-family, R-G and R-3 districts are proposed. The zoning text changes are described in more detail in the project section of this report.

**Recommended Action:** Recommend to City Council

**Location:** City-wide

**Assessor Parcel Number(s):** Not applicable

**Area:** Not applicable

**Owner:** Not applicable

**Agent of Applicant:** None

**Consultant(s):** None

**Environmental Review:** An initial study was prepared for the amendments. No significant environmental impacts were identified. A negative declaration has therefore been prepared for Planning Commission consideration.

**Existing General Plan:** Medium, High and Very High density residential

**Existing Zoning:** R-G and R-3

**Existing Land Use:** Not applicable

**Public Hearing Notice:** A Public Hearing Notice was delivered to The Argus on June 9, 2005 to be published by June 13, 2005.

In addition, a Notice of Preparation of a Draft Negative Declaration was delivered to The Argus on May 25, 2005 to be published on May 31, 2005.

**Executive Summary:** The changes to the R-3 district would clarify density calculation requirements for multi-family projects, allow for minor deviations in density above or below the density ranges for the district and make the City Council the approving body for certain projects that exceed the expected density in portions of a project while meeting the overall density requirements for the total project.

**Background and Previous Actions:** The General Plan's Housing Element directed that a new multi-family zoning district (R-3) be developed to allow new development in multifamily districts at all densities within density ranges of the General Plan in lieu of the Planned District process. The R-3 district was adopted by City Council on July 22, 2003. In applying the ordinance since adoption, staff has found some provisions related to density requirements need to be clarified. In reviewing the R-3 district staff also identified minor changes to the conventional R-G district that would be useful to persons using those regulations.

**Project Description:** The zoning text amendments to the multi-family R-3 would:

- Clarify the density requirement for multi-family projects by allowing minor deviations above and below the density range for a project site when rounding off calculations determining the density of the project.
- Allow minor deviation above or below the density ranges for superior design in the R-3-35, R-3-50 and R-3-70 districts.
- Require the density of mixed use residential projects to be determined on a case by case basis.
- Require Planning Commission recommendation and City Council approval for projects which distribute density on a site such that density on portions of the site exceeds or falls below the density range for the property. (Currently, such projects are approved by the Planning Commission.)
- Include an advisory that combining small parcels may be necessary to fulfill the lot and siting requirements and other City standards and regulations.

The proposed changes in the R-G district would include the same advisory that combining parcels may be necessary to fulfill city requirements. The amendment also clarifies the minimum building area and width requirements as referring to the lot area, not the site area.

#### **PROJECT ANALYSIS:**

The following paragraphs describe the proposed changes to the R-3 and R-G districts and their conformance with the General Plan.

**Density Calculations:** The General Plan Land Use Chapter, Policy LU 1.9 establishes the method for calculating the density for moderate and high density residential development. It states that when the calculation results in a fraction of a dwelling of .5 or greater, the minimum density shall be rounded to the next whole number. In practice, the same rule is used in determining the maximum density. Rounding the calculation could result in allowing a unit less than the minimum or a unit more than the maximum. Staff believes such calculation results do not have adverse impacts on the housing, land use or environmental goals of the city. The recommended amendment states that "Minor deviations of no more than one dwelling above or below the permitted range may be allowed when rounding the density calculation."

**Minor Deviations from Density Range:** The amendment also allows minor deviations from the permitted density range for superior design in the higher density categories (i.e., the R-3-35, R-3-50 and R-3-70 districts). Specifically, three dwelling units more or less for the R-3-35, four units for the R-3-50 and 5 units for the R-3-70 would be allowed if the approving body finds such increase or decrease would result in a superior product. This amendment would provide the flexibility for implementing the Residential Design and Development Policies LU-1.11 through LU-1.25.

**Mixed Use Density:** While the current R-3 district allows non-residential development including uses permitted or conditionally permitted in a neighborhood (C-N) or office commercial (C-O) district, the density standard section only sets density standards for exclusively residential projects. The district allows a wide variety of non-residential uses, each with their own impacts on a neighborhood which need to be evaluated. The proposed amendment makes that evaluation an explicit requirement.

**Project Densities:** The zoning text amendment proposes to have the City Council approve projects where density is mathematically averaged over an entire site, but where portions of the project have density higher or lower than reflected in the General Plan designation for the property. An example of such a project is the Bridges-Regis project at the old Patio World site. The intent of the amendment is to have the City Council make the determination that the project fits into the surrounding existing or planned neighborhood. The amendment would implement Goal 1 of the Housing Element, "Conservation and enhancement of existing residential neighborhoods." and Land Use Policy 1.11, "Appropriate transitions shall be encouraged between higher density residential areas and lower density residential areas..."

**Small Parcel Advisory:** The R-G and R-3 district regulations establish the lot area, width and yard requirements. The zoning amendment to these districts state that small parcels may require the combining of several lots in order to meet those requirements. Major developers are aware of this. Owners or prospective purchasers of small parcels with little or no experience in development may not be aware that these requirements may constrain developing a parcel to its full potential. The proposed amendment is intended to be an early advisory to such persons that combining parcels may be necessary.

**ENVIRONMENTAL ANALYSIS:**

An Initial Study has been prepared for this project. The environmental analysis did not identify any potential impacts as a result of the proposed project and accordingly a Negative Declaration has been prepared for consideration by the Planning Commission. A more detailed description is provided within the Initial Study for the project, which is included as an enclosure.

The initial study conducted for the project has evaluated the potential for this project to cause an adverse effect -- either individually or cumulatively -- on wildlife resources. There is no evidence the proposed project would have any potential for adverse effect on wildlife resources. Based on this finding, a Certificate of Fee Exemption will be submitted with the Notice of Determination after project approval, as required by Public Resources Code section 21089 (see attachment to draft Negative Declaration). The Certificate of Fee Exemption allows the project to be exempted from the review fee and environmental review by the California Department of Fish and Game.

**Response from Agencies and Organizations:** None

**ENCLOSURES:** Initial Study, Draft Negative Declaration and Certificate of Fee Exemption were included as enclosures with the Land Use Range Enabler report, PLN2005-00221, part one, of this agenda.

**EXHIBITS:** Exhibit "A-2" Zoning Text Amendment for the R-G and R-3 zoning districts

**Recommended Actions:**

1. Hold public hearing.
2. Recommend that the City Council find the initial study conducted for the project has evaluated the potential impacts that could cause an adverse effect, either individually or cumulatively, on wildlife resources and find that there is no evidence the project would have any potential for adverse effect on wildlife resources. As a result, recommend the filing of a Certificate of Fee Exemption for the project.
3. Recommend to the City Council the adoption of Draft Negative Declaration finding that there is no substantial evidence that the project will have a significant effect on the environment and further find that this action reflects the independent judgment of the City of Fremont.
4. Find that the project is in conformance with the relevant provisions contained in the City's General Plan. These provisions include the designations, goals and policies set forth in the General Plan's Housing and Land Use Chapters as enumerated within the staff report.
5. Find the public necessity, convenience and general welfare require the adoption of this Zoning Text Amendment (PLN2005-000221) to implement the Housing Chapter of the General Plan and to clarify the process by which density of projects are determined.
6. Recommend PLN2005-000221, part 2, to the City Council in conformance with Exhibit "A-2" (Zoning Text Amendment).

**Exhibit A-2**  
**Amendments to the R-3 and R-G zoning districts**  
**PLN2005-00221 (part two)**  
**June 23, 2005**

**Amend R-3 Multi – Family Residence District Sections 8-2752 and 8-2754 as follows:**

Sec. 8-2752. Density standards.

The number of dwellings per unit of land, the density, is controlled so that housing can match the availability of public services and the support of commercial areas. The standards also allow the housing density to be matched with the carrying capacity of the land. In addition, the density standards are used as one type of control of overall building bulk. In areas with the highest level of public services, the minimum density standards ensure that the service capacity is not wasted and that the city's housing goals are met. Residential density requirements for exclusively multi-family developments in the R-3 zone shall be within the density ranges listed in ~~based on~~ the following table. ~~Proposed densities may fall within the identified permitted density for each zone:~~

Density requirements for mixed use multi-family developments including conditional uses allowed in this district shall be evaluated on a case by case basis to determine if the proposed mixed use development is consistent with the carrying capacity of the land and the service capacity of the area.

<b>Zone</b>	<b><u>Permitted Density Range</u> (units/gross acre)</b>
R-3-10	8.3 to 10
R-3-15	13 to 15
R-3-18	16.5 to 18
R-3-23	20.5 to 23
R-3-27	25 to 27
R-3-35	31 to 35
R-3-50	42.5 to 50
R-3-70	60 to 70

When the density calculation for a parcel results in a fraction of one-half or greater, the density shall be rounded up to the next whole unit; when the density calculation results in a fraction less than one-half, the density shall be rounded down to the next whole unit. Minor deviations of no more than one dwelling above or below the permitted range may be allowed when rounding the density calculation.

Notwithstanding the minor deviations in density calculations allowed above, up to three dwelling units below or above the density ranges may be allowed for projects in the R-3-35, four dwelling units in R-3-50 and five dwelling units in R-3-70 zones by the approving body to achieve a superior design.

For purposes of general plan density calculations and density bonus allowances, efficiency apartments or single room occupancy units<sup>1</sup> shall count as one half a dwelling unit.

Densities below the permitted density (except the minor deviations allowed by this section) shall only be allowed under special circumstances, detailed in the general plan land use and housing chapters, ~~and shall be subject to site plan and architectural approval by the planning commission.~~

Density bonuses above the permitted density range of a district shall be allowed subject to the provisions of this Code, the general plan, and state law.

Except for projects proposing a density bonus, the Planning Commission shall review and make recommendation and the City Council shall be the final approval authority for any project that involves density distribution wherein the respective density of one or more of the housing product types is either above or below the permitted density range established by the General Plan land use and zoning designations.

Sec. 8-2754. Lot and siting requirements.

The following standards work together to create desirable residential areas by promoting aesthetically pleasing environments, safety, privacy, energy conservation, and recreational opportunities. The development standards generally assure that new development will be compatible with the city's character. At the same time, the standards allow for flexibility for new development through site plan and architectural approval when the intent of the standard is met through alternate means. In addition, the regulations provide certainty to property owners, developers, and neighbors about the limits of what is generally allowed. The development standards are generally written for development on flat, regularly shaped lots, other lots could use the flexibility provided to propose alternate, appropriate developments.

The minimum lot size, width, and frontage requirements for new lots insure that development on a lot will in most cases be able to comply with all site development standards. Combining small parcels may be necessary to fulfill the requirements of this Article and other City standards and regulations. The standards also prevent the creation of very small lots that are difficult to develop at their full density potential. Minimum lot size, width, and frontage requirements are not applicable to townhouse style developments, which have special lot and subdivision needs that will be reviewed on a case-by-case basis through site plan and architectural approval and the tentative map process.

**Amend Article 8, R-G, Garden Apartment Residential District, Sec. 8-2805. as follows:**

Sec. 8-2805. Lot and siting requirements.

- (a) *Minimum building ~~site~~ lot area.* Seventy-five hundred square feet. (Combining small parcels may be necessary to fulfill the requirements of this Article and other City standards and regulations.)
- (b) *Building site area per dwelling unit:*
  - R-G-40--Four thousand square feet.
  - R-G-29--Twenty-nine hundred square feet.
  - R-G-24--Twenty-four hundred square feet.
  - R-G-19--Nineteen hundred square feet.
  - R-G-16--Sixteen hundred square feet.
  - R-G-15--Fifteen hundred square feet.
  - R-G-12--Twelve hundred square feet.
  - R-G-9--Nine hundred square feet.
- (c) *Building ~~site~~ lot width.* Seventy feet.

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<sup>1</sup> Term is defined in Article 1.